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Sprint Nextel Corporation  
Sprint Spectrum L.P. d/b/a Sprint Nextel  
and Nextel Finance Company

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

JUDY LARSON, BARRY HALL, JOE  
MILLIRON, TESSIE ROBB and  
WILLIE DAVIS, individually and on  
behalf of all others similarly situated,

Plaintiff,

-against-

AT&T MOBILITY LLC f/k/a  
CINGULAR WIRELESS LLC and  
SPRINT NEXTEL CORPORATION  
and SPRINT SPECTRUM L.P. d/b/a  
SPRINT NEXTEL and NEXTEL  
FINANCE COMPANY,

Defendants.

No. 2:07-cv-05325-JLL-ES

**DECLARATION OF  
JOSEPH A. BOYLE**

Joseph A. Boyle declares under penalty of perjury pursuant to 28

U.S.C. § 1746 that:

1. I am an attorney at law duly authorized to practice before the court of the State of New Jersey and this Court and a member of the law firm of Kelley Drye & Warren LLP. I submit this declaration in support of Sprint Nextel's Order to Show Cause seeking an order of contempt against certain Settlement Class Members and certain counsel who have aided and abetted that contempt as well as for an order under the All Writs Act staying any further prosecution of Class Released Claims in the California Subscriber Class matter under the caption *In re Cellphone Termination Fee Cases*, JCCP 4332 (Alameda County Superior Court, State of California) (the "Subscriber Class Case").<sup>1</sup>

2. After a contested All Writs Act proceeding that concluded with a lengthy hearing before this Court on January 15, 2009, this Court issued an Order filed on January 16, 2009 and bearing Docket No. 139, temporarily enjoining Subscriber Class Counsel from any further prosecution of its claims in the California State Court. A true and correct copy of that Order is annexed hereto as Exhibit A. A true and correct copy of the transcript of the January 15, 2009 hearing is annexed hereto as Exhibit B. That stay remained in effect through the time that this Court issued its Order (Docket No. 437) and Opinion (Docket No. 438) on January 15, 2010 approving the Settlement in this matter.

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<sup>1</sup> Unless otherwise defined herein, defined terms in this Declaration shall have the same meaning as the defined terms in the Stipulation and Settlement Agreement filed December 3, 2008 and bearing Docket No. 84-2.

3. On February 5, 2010, Class Counsel submitted a proposed final judgment (Docket No. 454) containing paragraph 23, which sought a permanent injunction enjoining non-opting out Settlement Class Members from either directly, representatively, or in any other capacity commencing, continuing, or prosecuting any action or proceeding against any or all Sprint Nextel released parties asserting any of the Class Released Claims. Class Released Claims included any “injunction claims” and specifically included all Related Claims that are based on, or arise out of, ETF-related claims. (Docket No. 84-1 at 7-9). Listed as related claims in the Settlement Agreement are the “*In re Cellphone Termination Fee Cases*, JCCP 4332 (Alameda County Superior Court, State of California) (the “California Court”) (excluding the *Ayyad* Class Claims).” Settlement Agreement, Docket No. 84-1 at p. 17.

4. On February 12, 2010, the undersigned submitted a letter, (Docket No. 462), to the Court requesting that, in light of an application for a temporary restraining order filed by Subscriber Class Plaintiffs and non-opting out Settlement Class Members Ramzy Ayyad and Jeweldean Hull, and their counsel, Alan R. Plutzik, Esq., L. Timothy Fisher, Esq. and Bramson, Plutzik, Mahler & Birkhauser, LLP; Jacqueline E. Mottek, Esq and Positive Legal Group, LLP; J. David Franklin, Esq. and Franklin & Franklin; Scott A. Bursor, Esq., and the Law Office of Scott A. Bursor, attempting to enjoin Sprint from collecting flat rate EFTs filed by Subscriber Class Counsel in *In re Cellphone Termination Fee Cases*

(the “Renewed TRO Application”), that the Court enter the Final Judgment as soon as possible. A true and correct copy of that letter is annexed hereto as Exhibit C.

5. On February 16, 2010, this Court entered the Final Judgment (Docket No. 470) with the permanent injunction set forth above. A true and correct copy of the Final Judgment is annexed hereto as Exhibit D.

6. The named plaintiff in the Subscriber Class Case is Katherine Zill. A true and correct of the Order (1) Removing Coughlin Stoia From Executive Committee and (2) Appointing Positive Legal Group to the ETF Executive Committee is annexed hereto as Exhibit E). According to Gilardi & Co., the Settlement Administrator, Katherine Zill opted out on October 7, 2009.

7. Prior to this Court’s entry of the Final Judgment, Sprint moved to dismiss the Subscriber Class Case based on res judicata. Judge Smith denied the TRO application and granted Sprint’s Motion to Dismiss. A true and correct copy of Judge Smith’s Order dated March 9, 2010 is annexed hereto as Exhibit F. After the entry of the Final Judgment, barring further litigation, Ms. Zill through her counsel appealed the dismissal of the absent Subscriber Class members claims in *Larson* (the “California Appeal”). A true and correct copy of the Appellant’s Opening Brief is annexed hereto as Exhibit G.

8. As the California Appeal constitutes continued litigation of matters resolved by the Court in the Final Judgment, counsel for Sprint Nextel sent a letter dated December 7, 2010, annexed hereto as Exhibit H, requesting that the

California Appeal be withdrawn. To date, only Ms. Mottek has responded by withdrawing her appearance as counsel in the California appeal. A true and correct copy of Counsel's Notice of Withdrawal is attached hereto as Exhibit I.

I declare under penalty of perjury that the foregoing statements are true and correct and acknowledge that if they are willfully false I am subject to punishment under penalty of perjury.

Dated: December 20, 2010

*s/Joseph A. Boyle*

Joseph A. Boyle